

1 AN ACT in relation to health.

2 Be it enacted by the People of the State of Illinois,
3 represented in the General Assembly:

4 Section 5. The children and Family Services Act is
5 amended by changing Section 22.3 as follows:

6 (20 ILCS 505/22.3) (from Ch. 23, par. 5022.3)

7 Sec. 22.3. To provide human immunodeficiency virus (HIV)
8 testing for any child in the custody of the Department being
9 placed in adoptive care, upon the request of the child's
10 prospective adoptive parent. Such test must be conducted in
11 accordance with guidelines published by the United States
12 Centers for Disease Control and Prevention shall consist of
13 an enzyme-linked immunosorbent assay (ELISA) test to
14 determine the presence of antibodies to HIV, or such other
15 test as may be approved by the Illinois Department of Public
16 Health; in the event of a positive result must be confirmed,
17 the Western Blot Assay or a more reliable confirmatory test
18 shall also be administered. The prospective adoptive parent
19 requesting the test shall be confidentially notified of the
20 test result, and if the test is positive, the Department
21 shall provide the prospective adoptive parents and child with
22 treatment and counseling, as appropriate. The Department
23 shall report positive HIV test results to the Illinois
24 Department of Public Health.

25 (Source: P.A. 86-904.)

26 Section 10. The AIDS Confidentiality Act is amended by
27 changing Sections 4, 5, and 9 as follows:

28 (410 ILCS 305/4) (from Ch. 111 1/2, par. 7304)

29 Sec. 4. No person may order an HIV test without first

1 receiving the written informed consent of the subject of the
2 test or the subject's legally authorized representative. A
3 test ordered under this Section must be conducted in
4 accordance with guidelines published by the United States
5 Centers for Disease Control and Prevention.

6 (Source: P.A. 85-1248.)

7 (410 ILCS 305/5) (from Ch. 111 1/2, par. 7305)

8 Sec. 5. No physician may order an HIV test without
9 making available to the person tested information about the
10 meaning of the test results, the availability of additional
11 or confirmatory testing, if appropriate, and the availability
12 of referrals for further information or counseling. A test
13 ordered under this Section must be conducted in accordance
14 with guidelines published by the United States Centers for
15 Disease Control and Prevention.

16 (Source: P.A. 85-677; 85-679.)

17 (410 ILCS 305/9) (from Ch. 111 1/2, par. 7309)

18 Sec. 9. No person may disclose or be compelled to
19 disclose the identity of any person upon whom a test is
20 performed, or the results of such a test in a manner which
21 permits identification of the subject of the test, except to
22 the following persons:

23 (a) The subject of the test or the subject's legally
24 authorized representative. A physician may notify the spouse
25 of the test subject, if the test result is positive and has
26 been confirmed ~~by a Western Blot Assay or more reliable test,~~
27 provided that the physician has first sought unsuccessfully
28 to persuade the patient to notify the spouse or that, a
29 reasonable time after the patient has agreed to make the
30 notification, the physician has reason to believe that the
31 patient has not provided the notification. This paragraph
32 shall not create a duty or obligation under which a physician

1 must notify the spouse of the test results, nor shall such
2 duty or obligation be implied. No civil liability or criminal
3 sanction under this Act shall be imposed for any disclosure
4 or non-disclosure of a test result to a spouse by a physician
5 acting in good faith under this paragraph. For the purpose
6 of any proceedings, civil or criminal, the good faith of any
7 physician acting under this paragraph shall be presumed.

8 (b) Any person designated in a legally effective release
9 of the test results executed by the subject of the test or
10 the subject's legally authorized representative.

11 (c) An authorized agent or employee of a health facility
12 or health care provider if the health facility or health care
13 provider itself is authorized to obtain the test results, the
14 agent or employee provides patient care or handles or
15 processes specimens of body fluids or tissues, and the agent
16 or employee has a need to know such information.

17 (d) The Department, in accordance with rules for
18 reporting and controlling the spread of disease, as otherwise
19 provided by State law. Neither the Department nor its
20 authorized representatives shall disclose information and
21 records held by them relating to known or suspected cases of
22 AIDS or HIV infection, publicly or in any action of any kind
23 in any court or before any tribunal, board, or agency. AIDS
24 and HIV infection data shall be protected from disclosure in
25 accordance with the provisions of Sections 8-2101 through
26 8-2105 of the Code of Civil Procedure.

27 (e) A health facility or health care provider which
28 procures, processes, distributes or uses: (i) a human body
29 part from a deceased person with respect to medical
30 information regarding that person; or (ii) semen provided
31 prior to the effective date of this Act for the purpose of
32 artificial insemination.

33 (f) Health facility staff committees for the purposes of
34 conducting program monitoring, program evaluation or service

1 reviews.

2 (g) (Blank).

3 (h) Any health care provider or employee of a health
4 facility, and any firefighter or EMT-A, EMT-P, or EMT-I,
5 involved in an accidental direct skin or mucous membrane
6 contact with the blood or bodily fluids of an individual
7 which is of a nature that may transmit HIV, as determined by
8 a physician in his medical judgment.

9 (i) Any law enforcement officer, as defined in
10 subsection (c) of Section 7, involved in the line of duty in
11 a direct skin or mucous membrane contact with the blood or
12 bodily fluids of an individual which is of a nature that may
13 transmit HIV, as determined by a physician in his medical
14 judgment.

15 (j) A temporary caretaker of a child taken into
16 temporary protective custody by the Department of Children
17 and Family Services pursuant to Section 5 of the Abused and
18 Neglected Child Reporting Act, as now or hereafter amended.

19 (k) In the case of a minor under 18 years of age whose
20 test result is positive and has been confirmed by--a--Western
21 Blot--Assay-or-a-more-reliable-test, the health care provider
22 who ordered the test shall make a reasonable effort to notify
23 the minor's parent or legal guardian if, in the professional
24 judgement of the health care provider, notification would be
25 in the best interest of the child and the health care
26 provider has first sought unsuccessfully to persuade the
27 minor to notify the parent or legal guardian or a reasonable
28 time after the minor has agreed to notify the parent or legal
29 guardian, the health care provider has reason to believe that
30 the minor has not made the notification. This subsection
31 shall not create a duty or obligation under which a health
32 care provider must notify the minor's parent or legal
33 guardian of the test results, nor shall a duty or obligation
34 be implied. No civil liability or criminal sanction under

1 this Act shall be imposed for any notification or
2 non-notification of a minor's test result by a health care
3 provider acting in good faith under this subsection. For the
4 purpose of any proceeding, civil or criminal, the good faith
5 of any health care provider acting under this subsection
6 shall be presumed.

7 (Source: P.A. 88-45; 89-381, eff. 8-18-95.)

8 Section 15. The Communicable Disease Prevention Act is
9 amended by changing Section 2a as follows:

10 (410 ILCS 315/2a) (from Ch. 111 1/2, par. 22.12a)

11 Sec. 2a. Whenever a child of school age is reported to
12 the Illinois Department of Public Health or a local health
13 department as having been diagnosed as having acquired immune
14 deficiency syndrome (AIDS) or AIDS-related complex (ARC) or
15 as having been shown to have been exposed to human
16 immunodeficiency virus (HIV) or any other identified
17 causative agent of AIDS by testing positive on a Western-Blot
18 ~~Assay--or--more--reliable~~ test conducted in accordance with
19 guidelines published by the United States Centers for Disease
20 Control and Prevention, such department shall give prompt and
21 confidential notice of the identity of the child to the
22 principal of the school in which the child is enrolled. If
23 the child is enrolled in a public school, the principal shall
24 disclose the identity of the child to the superintendent of
25 the school district in which the child resides.

26 The principal may, as necessary, disclose the identity of
27 an infected child to:

- 28 (1) the school nurse at that school;
- 29 (2) the classroom teachers in whose classes the child is
30 enrolled; and
- 31 (3) those persons who, pursuant to federal or state law,
32 are required to decide the placement or educational program

1 of the child.

2 In addition, the principal may inform such other persons
3 as may be necessary that an infected child is enrolled at
4 that school, so long as the child's identity is not revealed.
5 (Source: P.A. 85-1399.)

6 Section 20. The Juvenile Court Act of 1987 is amended by
7 changing Sections 2-11 and 5-710 as follows:

8 (705 ILCS 405/2-11) (from Ch. 37, par. 802-11)

9 Sec. 2-11. Medical and dental treatment and care. At all
10 times during temporary custody or shelter care, the court may
11 authorize a physician, a hospital or any other appropriate
12 health care provider to provide medical, dental or surgical
13 procedures if such procedures are necessary to safeguard the
14 minor's life or health.

15 With respect to any minor for whom the Department of
16 Children and Family Services Guardianship Administrator is
17 appointed the temporary custodian, the Guardianship
18 Administrator or his designee shall be deemed the minor's
19 legally authorized representative for purposes of consenting
20 to an HIV test and obtaining and disclosing information
21 concerning such test pursuant to the AIDS Confidentiality Act
22 and for purposes of consenting to the release of information
23 pursuant to the Illinois Sexually Transmissible Disease
24 Control Act. Such a test performed on the minor must be
25 conducted in accordance with guidelines published by the
26 United States Centers for Disease Control and Prevention.

27 Any person who administers an HIV test upon the consent
28 of the Department of Children and Family Services
29 Guardianship Administrator or his designee, or who discloses
30 the results of such tests to the Department's Guardianship
31 Administrator or his designee, shall have immunity from any
32 liability, civil, criminal or otherwise, that might result by

1 reason of such actions. For the purpose of any proceedings,
2 civil or criminal, the good faith of any persons required to
3 administer or disclose the results of tests, or permitted to
4 take such actions, shall be presumed.

5 (Source: P.A. 86-904.)

6 (705 ILCS 405/5-710)

7 Sec. 5-710. Kinds of sentencing orders.

8 (1) The following kinds of sentencing orders may be made
9 in respect of wards of the court:

10 (a) Except as provided in Sections 5-805, 5-810,
11 5-815, a minor who is found guilty under Section 5-620
12 may be:

13 (i) put on probation or conditional discharge
14 and released to his or her parents, guardian or
15 legal custodian, provided, however, that any such
16 minor who is not committed to the Department of
17 Corrections, Juvenile Division under this subsection
18 and who is found to be a delinquent for an offense
19 which is first degree murder, a Class X felony, or a
20 forcible felony shall be placed on probation;

21 (ii) placed in accordance with Section 5-740,
22 with or without also being put on probation or
23 conditional discharge;

24 (iii) required to undergo a substance abuse
25 assessment conducted by a licensed provider and
26 participate in the indicated clinical level of care;

27 (iv) placed in the guardianship of the
28 Department of Children and Family Services, but only
29 if the delinquent minor is under 13 years of age;

30 (v) placed in detention for a period not to
31 exceed 30 days, either as the exclusive order of
32 disposition or, where appropriate, in conjunction
33 with any other order of disposition issued under

1 this paragraph, provided that any such detention
2 shall be in a juvenile detention home and the minor
3 so detained shall be 10 years of age or older.
4 However, the 30-day limitation may be extended by
5 further order of the court for a minor under age 13
6 committed to the Department of Children and Family
7 Services if the court finds that the minor is a
8 danger to himself or others. The minor shall be
9 given credit on the sentencing order of detention
10 for time spent in detention under Sections 5-501,
11 5-601, 5-710, or 5-720 of this Article as a result
12 of the offense for which the sentencing order was
13 imposed. The court may grant credit on a sentencing
14 order of detention entered under a violation of
15 probation or violation of conditional discharge
16 under Section 5-720 of this Article for time spent
17 in detention before the filing of the petition
18 alleging the violation. A minor shall not be
19 deprived of credit for time spent in detention
20 before the filing of a violation of probation or
21 conditional discharge alleging the same or related
22 act or acts;

23 (vi) ordered partially or completely
24 emancipated in accordance with the provisions of the
25 Emancipation of Mature Minors Act;

26 (vii) subject to having his or her driver's
27 license or driving privileges suspended for such
28 time as determined by the court but only until he or
29 she attains 18 years of age;

30 (viii) put on probation or conditional
31 discharge and placed in detention under Section
32 3-6039 of the Counties Code for a period not to
33 exceed the period of incarceration permitted by law
34 for adults found guilty of the same offense or

1 offenses for which the minor was adjudicated
2 delinquent, and in any event no longer than upon
3 attainment of age 21; this subdivision (viii)
4 notwithstanding any contrary provision of the law;
5 or

6 (ix) ordered to undergo a medical or other
7 procedure to have a tattoo symbolizing allegiance to
8 a street gang removed from his or her body.

9 (b) A minor found to be guilty may be committed to
10 the Department of Corrections, Juvenile Division, under
11 Section 5-750 if the minor is 13 years of age or older,
12 provided that the commitment to the Department of
13 Corrections, Juvenile Division, shall be made only if a
14 term of incarceration is permitted by law for adults
15 found guilty of the offense for which the minor was
16 adjudicated delinquent. The time during which a minor is
17 in custody before being released upon the request of a
18 parent, guardian or legal custodian shall be considered
19 as time spent in detention.

20 (c) When a minor is found to be guilty for an
21 offense which is a violation of the Illinois Controlled
22 Substances Act or the Cannabis Control Act and made a
23 ward of the court, the court may enter a disposition
24 order requiring the minor to undergo assessment,
25 counseling or treatment in a substance abuse program
26 approved by the Department of Human Services.

27 (2) Any sentencing order other than commitment to the
28 Department of Corrections, Juvenile Division, may provide for
29 protective supervision under Section 5-725 and may include an
30 order of protection under Section 5-730.

31 (3) Unless the sentencing order expressly so provides,
32 it does not operate to close proceedings on the pending
33 petition, but is subject to modification until final closing
34 and discharge of the proceedings under Section 5-750.

1 (4) In addition to any other sentence, the court may
2 order any minor found to be delinquent to make restitution,
3 in monetary or non-monetary form, under the terms and
4 conditions of Section 5-5-6 of the Unified Code of
5 Corrections, except that the "presentencing hearing" referred
6 to in that Section shall be the sentencing hearing for
7 purposes of this Section. The parent, guardian or legal
8 custodian of the minor may be ordered by the court to pay
9 some or all of the restitution on the minor's behalf,
10 pursuant to the Parental Responsibility Law. The State's
11 Attorney is authorized to act on behalf of any victim in
12 seeking restitution in proceedings under this Section, up to
13 the maximum amount allowed in Section 5 of the Parental
14 Responsibility Law.

15 (5) Any sentencing order where the minor is committed or
16 placed in accordance with Section 5-740 shall provide for the
17 parents or guardian of the estate of the minor to pay to the
18 legal custodian or guardian of the person of the minor such
19 sums as are determined by the custodian or guardian of the
20 person of the minor as necessary for the minor's needs. The
21 payments may not exceed the maximum amounts provided for by
22 Section 9.1 of the Children and Family Services Act.

23 (6) Whenever the sentencing order requires the minor to
24 attend school or participate in a program of training, the
25 truant officer or designated school official shall regularly
26 report to the court if the minor is a chronic or habitual
27 truant under Section 26-2a of the School Code.

28 (7) In no event shall a guilty minor be committed to the
29 Department of Corrections, Juvenile Division for a period of
30 time in excess of that period for which an adult could be
31 committed for the same act.

32 (8) A minor found to be guilty for reasons that include
33 a violation of Section 21-1.3 of the Criminal Code of 1961
34 shall be ordered to perform community service for not less

1 than 30 and not more than 120 hours, if community service is
2 available in the jurisdiction. The community service shall
3 include, but need not be limited to, the cleanup and repair
4 of the damage that was caused by the violation or similar
5 damage to property located in the municipality or county in
6 which the violation occurred. The order may be in addition
7 to any other order authorized by this Section.

8 (8.5) A minor found to be guilty for reasons that
9 include a violation of Section 3.02 or Section 3.03 of the
10 Humane Care for Animals Act or paragraph (d) of subsection
11 (1) of Section 21-1 of the Criminal Code of 1961 shall be
12 ordered to undergo medical or psychiatric treatment rendered
13 by a psychiatrist or psychological treatment rendered by a
14 clinical psychologist. The order may be in addition to any
15 other order authorized by this Section.

16 (9) In addition to any other sentencing order, the court
17 shall order any minor found to be guilty for an act which
18 would constitute, predatory criminal sexual assault of a
19 child, aggravated criminal sexual assault, criminal sexual
20 assault, aggravated criminal sexual abuse, or criminal sexual
21 abuse if committed by an adult to undergo medical testing to
22 determine whether the defendant has any sexually
23 transmissible disease including a test for infection with
24 human immunodeficiency virus (HIV) or any other identified
25 causative agent agency of acquired immunodeficiency syndrome
26 (AIDS). A test for infection with HIV or any other identified
27 causative agent of AIDS must be conducted in accordance with
28 guidelines published by the United States Centers for Disease
29 Control and Prevention. Any medical test shall be performed
30 only by appropriately licensed medical practitioners and may
31 include an analysis of any bodily fluids as well as an
32 examination of the minor's person. Except as otherwise
33 provided by law, the results of the test shall be kept
34 strictly confidential by all medical personnel involved in

1 the testing and must be personally delivered in a sealed
2 envelope to the judge of the court in which the sentencing
3 order was entered for the judge's inspection in camera.
4 Acting in accordance with the best interests of the victim
5 and the public, the judge shall have the discretion to
6 determine to whom the results of the testing may be revealed.
7 The court shall notify the minor of the results of the test
8 for infection with the human immunodeficiency virus (HIV).
9 The court shall also notify the victim if requested by the
10 victim, and if the victim is under the age of 15 and if
11 requested by the victim's parents or legal guardian, the
12 court shall notify the victim's parents or the legal
13 guardian, of the results of the test for infection with the
14 human immunodeficiency virus (HIV). The court shall provide
15 information on the availability of HIV testing and counseling
16 at the Department of Public Health facilities to all parties
17 to whom the results of the testing are revealed. The court
18 shall order that the cost of any test shall be paid by the
19 county and may be taxed as costs against the minor.

20 (10) When a court finds a minor to be guilty the court
21 shall, before entering a sentencing order under this Section,
22 make a finding whether the offense committed either: (a) was
23 related to or in furtherance of the criminal activities of an
24 organized gang or was motivated by the minor's membership in
25 or allegiance to an organized gang, or (b) involved a
26 violation of subsection (a) of Section 12-7.1 of the Criminal
27 Code of 1961, a violation of any Section of Article 24 of the
28 Criminal Code of 1961, or a violation of any statute that
29 involved the wrongful use of a firearm. If the court
30 determines the question in the affirmative, and the court
31 does not commit the minor to the Department of Corrections,
32 Juvenile Division, the court shall order the minor to perform
33 community service for not less than 30 hours nor more than
34 120 hours, provided that community service is available in

1 the jurisdiction and is funded and approved by the county
2 board of the county where the offense was committed. The
3 community service shall include, but need not be limited to,
4 the cleanup and repair of any damage caused by a violation of
5 Section 21-1.3 of the Criminal Code of 1961 and similar
6 damage to property located in the municipality or county in
7 which the violation occurred. When possible and reasonable,
8 the community service shall be performed in the minor's
9 neighborhood. This order shall be in addition to any other
10 order authorized by this Section except for an order to place
11 the minor in the custody of the Department of Corrections,
12 Juvenile Division. For the purposes of this Section,
13 "organized gang" has the meaning ascribed to it in Section 10
14 of the Illinois Streetgang Terrorism Omnibus Prevention Act.
15 (Source: P.A. 91-98, eff. 1-1-00; 92-454, eff. 1-1-02.)

16 Section 25. The Criminal Code of 1961 is amended by
17 changing Section 12-18 as follows:

18 (720 ILCS 5/12-18) (from Ch. 38, par. 12-18)

19 Sec. 12-18. General Provisions.

20 (a) No person accused of violating Sections 12-13,
21 12-14, 12-15 or 12-16 of this Code shall be presumed to be
22 incapable of committing an offense prohibited by Sections
23 12-13, 12-14, 12-14.1, 12-15 or 12-16 of this Code because of
24 age, physical condition or relationship to the victim, except
25 as otherwise provided in subsection (c) of this Section.
26 Nothing in this Section shall be construed to modify or
27 abrogate the affirmative defense of infancy under Section 6-1
28 of this Code or the provisions of Section 5-805 of the
29 Juvenile Court Act of 1987.

30 (b) Any medical examination or procedure which is
31 conducted by a physician, nurse, medical or hospital
32 personnel, parent, or caretaker for purposes and in a manner

1 consistent with reasonable medical standards is not an
2 offense under Sections 12-13, 12-14, 12-14.1, 12-15 and 12-16
3 of this Code.

4 (c) Prosecution of a spouse of a victim under this
5 subsection for any violation by the victim's spouse of
6 Section 12-13, 12-14, 12-15 or 12-16 of this Code is barred
7 unless the victim reported such offense to a law enforcement
8 agency or the State's Attorney's office within 30 days after
9 the offense was committed, except when the court finds good
10 cause for the delay.

11 (d) In addition to the sentences provided for in
12 Sections 12-13, 12-14, 12-14.1, 12-15 and 12-16 of the
13 Criminal Code of 1961 the Court may order any person who is
14 convicted of violating any of those Sections to meet all or
15 any portion of the financial obligations of treatment,
16 including but not limited to medical, psychiatric,
17 rehabilitative or psychological treatment, prescribed for the
18 victim or victims of the offense.

19 (e) After a finding at a preliminary hearing that there
20 is probable cause to believe that an accused has committed a
21 violation of Section 12-13, 12-14, or 12-14.1 of this Code,
22 or after an indictment is returned charging an accused with a
23 violation of Section 12-13, 12-14, or 12-14.1 of this Code,
24 or after a finding that a defendant charged with a violation
25 of Section 12-13, 12-14, or 12-14.1 of this Code is unfit to
26 stand trial pursuant to Section 104-16 of the Code of
27 Criminal Procedure of 1963 where the finding is made prior to
28 preliminary hearing, at the request of the person who was the
29 victim of the violation of Section 12-13, 12-14, or 12-14.1,
30 the prosecuting State's attorney shall seek an order from the
31 court to compel the accused to be tested for any sexually
32 transmissible disease, including a test for infection with
33 human immunodeficiency virus (HIV). The medical tests shall
34 be performed only by appropriately licensed medical

1 practitioners. The test for infection with human
2 immunodeficiency virus (HIV) must be conducted in accordance
3 with guidelines published by the United States Centers for
4 Disease Control and Prevention shall--consist--of--an
5 enzyme-linked-immunosorbent-assay-(ELISA)-test, or such other
6 test as may be approved by the Illinois Department of Public
7 Health; in the event of a positive result must be confirmed,
8 the Western Blot Assay or a more reliable confirmatory test
9 shall be administered. The results of the tests shall be
10 kept strictly confidential by all medical personnel involved
11 in the testing and must be personally delivered in a sealed
12 envelope to the victim and to the judge who entered the
13 order, for the judge's inspection in camera. Acting in
14 accordance with the best interests of the victim and the
15 public, the judge shall have the discretion to determine to
16 whom, if anyone, the result of the testing may be revealed;
17 however, in no case shall the identity of the victim be
18 disclosed. The court shall order that the cost of the tests
19 shall be paid by the county, and may be taxed as costs
20 against the accused if convicted.

21 (f) Whenever any law enforcement officer has reasonable
22 cause to believe that a person has been delivered a
23 controlled substance without his or her consent, the law
24 enforcement officer shall advise the victim about seeking
25 medical treatment and preserving evidence.

26 (g) Every hospital providing emergency hospital services
27 to an alleged sexual assault survivor, when there is
28 reasonable cause to believe that a person has been delivered
29 a controlled substance without his or her consent, shall
30 designate personnel to provide:

31 (1) An explanation to the victim about the nature
32 and effects of commonly used controlled substances and
33 how such controlled substances are administered.

34 (2) An offer to the victim of testing for the

1 presence of such controlled substances.

2 (3) A disclosure to the victim that all controlled
3 substances or alcohol ingested by the victim will be
4 disclosed by the test.

5 (4) A statement that the test is completely
6 voluntary.

7 (5) A form for written authorization for sample
8 analysis of all controlled substances and alcohol
9 ingested by the victim.

10 A physician licensed to practice medicine in all its
11 branches may agree to be a designated person under this
12 subsection.

13 No sample analysis may be performed unless the victim
14 returns a signed written authorization within 48 hours after
15 the sample was collected.

16 Any medical treatment or care under this subsection shall
17 be only in accordance with the order of a physician licensed
18 to practice medicine in all of its branches. Any testing
19 under this subsection shall be only in accordance with the
20 order of a licensed individual authorized to order the
21 testing.

22 (Source: P.A. 91-271, eff. 1-1-00; 91-357, eff. 7-29-99;
23 92-81, eff. 7-12-01.)

24 Section 30. The Unified Code of Corrections is amended
25 by changing Sections 3-6-2 and 5-5-3 as follows:

26 (730 ILCS 5/3-6-2) (from Ch. 38, par. 1003-6-2)

27 Sec. 3-6-2. Institutions and Facility Administration.

28 (a) Each institution and facility of the Department
29 shall be administered by a chief administrative officer
30 appointed by the Director. A chief administrative officer
31 shall be responsible for all persons assigned to the
32 institution or facility. The chief administrative officer

1 shall administer the programs of the Department for the
2 custody and treatment of such persons.

3 (b) The chief administrative officer shall have such
4 assistants as the Department may assign.

5 (c) The Director or Assistant Director shall have the
6 emergency powers to temporarily transfer individuals without
7 formal procedures to any State, county, municipal or regional
8 correctional or detention institution or facility in the
9 State, subject to the acceptance of such receiving
10 institution or facility, or to designate any reasonably
11 secure place in the State as such an institution or facility
12 and to make transfers thereto. However, transfers made under
13 emergency powers shall be reviewed as soon as practicable
14 under Article 8, and shall be subject to Section 5-905 of the
15 Juvenile Court Act of 1987. This Section shall not apply to
16 transfers to the Department of Human Services which are
17 provided for under Section 3-8-5 or Section 3-10-5.

18 (d) The Department shall provide educational programs
19 for all committed persons so that all persons have an
20 opportunity to attain the achievement level equivalent to the
21 completion of the twelfth grade in the public school system
22 in this State. Other higher levels of attainment shall be
23 encouraged and professional instruction shall be maintained
24 wherever possible. The Department may establish programs of
25 mandatory education and may establish rules and regulations
26 for the administration of such programs. A person committed
27 to the Department who, during the period of his or her
28 incarceration, participates in an educational program
29 provided by or through the Department and through that
30 program is awarded or earns the number of hours of credit
31 required for the award of an associate, baccalaureate, or
32 higher degree from a community college, college, or
33 university located in Illinois shall reimburse the State,
34 through the Department, for the costs incurred by the State

1 in providing that person during his or her incarceration with
2 the education that qualifies him or her for the award of that
3 degree. The costs for which reimbursement is required under
4 this subsection shall be determined and computed by the
5 Department under rules and regulations that it shall
6 establish for that purpose. However, interest at the rate of
7 6% per annum shall be charged on the balance of those costs
8 from time to time remaining unpaid, from the date of the
9 person's parole, mandatory supervised release, or release
10 constituting a final termination of his or her commitment to
11 the Department until paid.

12 (e) A person committed to the Department who becomes in
13 need of medical or surgical treatment but is incapable of
14 giving consent thereto shall receive such medical or surgical
15 treatment by the chief administrative officer consenting on
16 the person's behalf. Before the chief administrative officer
17 consents, he or she shall obtain the advice of one or more
18 physicians licensed to practice medicine in all its branches
19 in this State. If such physician or physicians advise:

20 (1) that immediate medical or surgical treatment is
21 required relative to a condition threatening to cause
22 death, damage or impairment to bodily functions, or
23 disfigurement; and

24 (2) that the person is not capable of giving
25 consent to such treatment; the chief administrative
26 officer may give consent for such medical or surgical
27 treatment, and such consent shall be deemed to be the
28 consent of the person for all purposes, including, but
29 not limited to, the authority of a physician to give such
30 treatment.

31 (f) In the event that the person requires medical care
32 and treatment at a place other than the institution or
33 facility, the person may be removed therefrom under
34 conditions prescribed by the Department. The Department shall

1 require the committed person receiving medical or dental
2 services on a non-emergency basis to pay a \$2 co-payment to
3 the Department for each visit for medical or dental services.
4 The amount of each co-payment shall be deducted from the
5 committed person's individual account. A committed person who
6 has a chronic illness, as defined by Department rules and
7 regulations, shall be exempt from the \$2 co-payment for
8 treatment of the chronic illness. A committed person shall
9 not be subject to a \$2 co-payment for follow-up visits
10 ordered by a physician, who is employed by, or contracts
11 with, the Department. A committed person who is indigent is
12 exempt from the \$2 co-payment and is entitled to receive
13 medical or dental services on the same basis as a committed
14 person who is financially able to afford the co-payment.
15 Notwithstanding any other provision in this subsection (f) to
16 the contrary, any person committed to any facility operated
17 by the Juvenile Division, as set forth in subsection (b) of
18 Section 3-2-5 of this Code, is exempt from the co-payment
19 requirement for the duration of confinement in those
20 facilities.

21 (g) Any person having sole custody of a child at the
22 time of commitment or any woman giving birth to a child after
23 her commitment, may arrange through the Department of
24 Children and Family Services for suitable placement of the
25 child outside of the Department of Corrections. The Director
26 of the Department of Corrections may determine that there are
27 special reasons why the child should continue in the custody
28 of the mother until the child is 6 years old.

29 (h) The Department may provide Family Responsibility
30 Services which may consist of, but not be limited to the
31 following:

- 32 (1) family advocacy counseling;
- 33 (2) parent self-help group;
- 34 (3) parenting skills training;

1 (4) parent and child overnight program;

2 (5) parent and child reunification counseling,
3 either separately or together, preceding the inmate's
4 release; and

5 (6) a prerelease reunification staffing involving
6 the family advocate, the inmate and the child's
7 counselor, or both and the inmate.

8 (i) Prior to the release of any inmate who has a
9 documented history of intravenous drug use, and upon the
10 receipt of that inmate's written informed consent, the
11 Department shall provide for the testing of such inmate for
12 infection with human immunodeficiency virus (HIV) and any
13 other identified causative agent of acquired immunodeficiency
14 syndrome (AIDS). The testing provided under this subsection
15 must be conducted in accordance with guidelines published by
16 the United States Centers for Disease Control and Prevention;
17 a positive result must be confirmed. ~~shall--consist--of--an~~
18 ~~enzyme-linked--immunosorbent-assay-(ELISA)-test-or-such-other~~
19 ~~test-as-may-be-approved-by-the-Illinois-Department-of--Public~~
20 ~~Health.--If--the--test--result--is-positive,--the-Western-Blot~~
21 ~~Assay--or--more---reliable---confirmatory---test---shall---be~~
22 ~~administered.~~ All inmates tested in accordance with the
23 provisions of this subsection shall be provided with pre-test
24 and post-test counseling. Notwithstanding any provision of
25 this subsection to the contrary, the Department shall not be
26 required to conduct the testing and counseling required by
27 this subsection unless sufficient funds to cover all costs of
28 such testing and counseling are appropriated for that purpose
29 by the General Assembly.

30 (Source: P.A. 91-912, eff. 7-7-00; 92-292, eff. 8-9-01.)

31 (730 ILCS 5/5-5-3) (from Ch. 38, par. 1005-5-3)

32 Sec. 5-5-3. Disposition.

33 (a) Every person convicted of an offense shall be

1 sentenced as provided in this Section.

2 (b) The following options shall be appropriate
3 dispositions, alone or in combination, for all felonies and
4 misdemeanors other than those identified in subsection (c) of
5 this Section:

6 (1) A period of probation.

7 (2) A term of periodic imprisonment.

8 (3) A term of conditional discharge.

9 (4) A term of imprisonment.

10 (5) An order directing the offender to clean up and
11 repair the damage, if the offender was convicted under
12 paragraph (h) of Section 21-1 of the Criminal Code of
13 1961.

14 (6) A fine.

15 (7) An order directing the offender to make
16 restitution to the victim under Section 5-5-6 of this
17 Code.

18 (8) A sentence of participation in a county impact
19 incarceration program under Section 5-8-1.2 of this Code.

20 Whenever an individual is sentenced for an offense based
21 upon an arrest for a violation of Section 11-501 of the
22 Illinois Vehicle Code, or a similar provision of a local
23 ordinance, and the professional evaluation recommends
24 remedial or rehabilitative treatment or education, neither
25 the treatment nor the education shall be the sole disposition
26 and either or both may be imposed only in conjunction with
27 another disposition. The court shall monitor compliance with
28 any remedial education or treatment recommendations contained
29 in the professional evaluation. Programs conducting alcohol
30 or other drug evaluation or remedial education must be
31 licensed by the Department of Human Services. However, if
32 the individual is not a resident of Illinois, the court may
33 accept an alcohol or other drug evaluation or remedial
34 education program in the state of such individual's

1 residence. Programs providing treatment must be licensed
2 under existing applicable alcoholism and drug treatment
3 licensure standards.

4 In addition to any other fine or penalty required by law,
5 any individual convicted of a violation of Section 11-501 of
6 the Illinois Vehicle Code or a similar provision of local
7 ordinance, whose operation of a motor vehicle while in
8 violation of Section 11-501 or such ordinance proximately
9 caused an incident resulting in an appropriate emergency
10 response, shall be required to make restitution to a public
11 agency for the costs of that emergency response. Such
12 restitution shall not exceed \$500 per public agency for each
13 such emergency response. For the purpose of this paragraph,
14 emergency response shall mean any incident requiring a
15 response by: a police officer as defined under Section 1-162
16 of the Illinois Vehicle Code; a fireman carried on the rolls
17 of a regularly constituted fire department; and an ambulance
18 as defined under Section 4.05 of the Emergency Medical
19 Services (EMS) Systems Act.

20 Neither a fine nor restitution shall be the sole
21 disposition for a felony and either or both may be imposed
22 only in conjunction with another disposition.

23 (c) (1) When a defendant is found guilty of first degree
24 murder the State may either seek a sentence of
25 imprisonment under Section 5-8-1 of this Code, or where
26 appropriate seek a sentence of death under Section 9-1 of
27 the Criminal Code of 1961.

28 (2) A period of probation, a term of periodic
29 imprisonment or conditional discharge shall not be
30 imposed for the following offenses. The court shall
31 sentence the offender to not less than the minimum term
32 of imprisonment set forth in this Code for the following
33 offenses, and may order a fine or restitution or both in
34 conjunction with such term of imprisonment:

1 (A) First degree murder where the death
2 penalty is not imposed.

3 (B) Attempted first degree murder.

4 (C) A Class X felony.

5 (D) A violation of Section 401.1 or 407 of the
6 Illinois Controlled Substances Act, or a violation
7 of subdivision (c)(1) or (c)(2) of Section 401 of
8 that Act which relates to more than 5 grams of a
9 substance containing heroin or cocaine or an analog
10 thereof.

11 (E) A violation of Section 5.1 or 9 of the
12 Cannabis Control Act.

13 (F) A Class 2 or greater felony if the
14 offender had been convicted of a Class 2 or greater
15 felony within 10 years of the date on which the
16 offender committed the offense for which he or she
17 is being sentenced, except as otherwise provided in
18 Section 40-10 of the Alcoholism and Other Drug Abuse
19 and Dependency Act.

20 (G) Residential burglary, except as otherwise
21 provided in Section 40-10 of the Alcoholism and
22 Other Drug Abuse and Dependency Act.

23 (H) Criminal sexual assault, except as
24 otherwise provided in subsection (e) of this
25 Section.

26 (I) Aggravated battery of a senior citizen.

27 (J) A forcible felony if the offense was
28 related to the activities of an organized gang.

29 Before July 1, 1994, for the purposes of this
30 paragraph, "organized gang" means an association of
31 5 or more persons, with an established hierarchy,
32 that encourages members of the association to
33 perpetrate crimes or provides support to the members
34 of the association who do commit crimes.

1 Beginning July 1, 1994, for the purposes of
2 this paragraph, "organized gang" has the meaning
3 ascribed to it in Section 10 of the Illinois
4 Streetgang Terrorism Omnibus Prevention Act.

5 (K) Vehicular hijacking.

6 (L) A second or subsequent conviction for the
7 offense of hate crime when the underlying offense
8 upon which the hate crime is based is felony
9 aggravated assault or felony mob action.

10 (M) A second or subsequent conviction for the
11 offense of institutional vandalism if the damage to
12 the property exceeds \$300.

13 (N) A Class 3 felony violation of paragraph
14 (1) of subsection (a) of Section 2 of the Firearm
15 Owners Identification Card Act.

16 (O) A violation of Section 12-6.1 of the
17 Criminal Code of 1961.

18 (P) A violation of paragraph (1), (2), (3),
19 (4), (5), or (7) of subsection (a) of Section
20 11-20.1 of the Criminal Code of 1961.

21 (Q) A violation of Section 20-1.2 of the
22 Criminal Code of 1961.

23 (R) A violation of Section 24-3A of the
24 Criminal Code of 1961.

25 (S) A violation of Section 11-501(c-1)(3) of
26 the Illinois Vehicle Code.

27 (3) A minimum term of imprisonment of not less than
28 5 days or 30 days of community service as may be
29 determined by the court shall be imposed for a second
30 violation committed within 5 years of a previous
31 violation of Section 11-501 of the Illinois Vehicle Code
32 or a similar provision of a local ordinance. In the case
33 of a third or subsequent violation committed within 5
34 years of a previous violation of Section 11-501 of the

1 Illinois Vehicle Code or a similar provision of a local
2 ordinance, a minimum term of either 10 days of
3 imprisonment or 60 days of community service shall be
4 imposed.

5 (4) A minimum term of imprisonment of not less than
6 10 consecutive days or 30 days of community service shall
7 be imposed for a violation of paragraph (c) of Section
8 6-303 of the Illinois Vehicle Code.

9 (4.1) A minimum term of 30 consecutive days of
10 imprisonment, 40 days of 24 hour periodic imprisonment or
11 720 hours of community service, as may be determined by
12 the court, shall be imposed for a violation of Section
13 11-501 of the Illinois Vehicle Code during a period in
14 which the defendant's driving privileges are revoked or
15 suspended, where the revocation or suspension was for a
16 violation of Section 11-501 or Section 11-501.1 of that
17 Code.

18 (4.2) Except as provided in paragraph (4.3) of this
19 subsection (c), a minimum of 100 hours of community
20 service shall be imposed for a second violation of
21 Section 6-303 of the Illinois Vehicle Code.

22 (4.3) A minimum term of imprisonment of 30 days or
23 300 hours of community service, as determined by the
24 court, shall be imposed for a second violation of
25 subsection (c) of Section 6-303 of the Illinois Vehicle
26 Code.

27 (4.4) Except as provided in paragraph (4.5) and
28 paragraph (4.6) of this subsection (c), a minimum term of
29 imprisonment of 30 days or 300 hours of community
30 service, as determined by the court, shall be imposed for
31 a third or subsequent violation of Section 6-303 of the
32 Illinois Vehicle Code.

33 (4.5) A minimum term of imprisonment of 30 days
34 shall be imposed for a third violation of subsection (c)

1 of Section 6-303 of the Illinois Vehicle Code.

2 (4.6) A minimum term of imprisonment of 180 days
3 shall be imposed for a fourth or subsequent violation of
4 subsection (c) of Section 6-303 of the Illinois Vehicle
5 Code.

6 (5) The court may sentence an offender convicted of
7 a business offense or a petty offense or a corporation or
8 unincorporated association convicted of any offense to:

9 (A) a period of conditional discharge;

10 (B) a fine;

11 (C) make restitution to the victim under
12 Section 5-5-6 of this Code.

13 (5.1) In addition to any penalties imposed under
14 paragraph (5) of this subsection (c), and except as
15 provided in paragraph (5.2) or (5.3), a person convicted
16 of violating subsection (c) of Section 11-907 of the
17 Illinois Vehicle Code shall have his or her driver's
18 license, permit, or privileges suspended for at least 90
19 days but not more than one year, if the violation
20 resulted in damage to the property of another person.

21 (5.2) In addition to any penalties imposed under
22 paragraph (5) of this subsection (c), and except as
23 provided in paragraph (5.3), a person convicted of
24 violating subsection (c) of Section 11-907 of the
25 Illinois Vehicle Code shall have his or her driver's
26 license, permit, or privileges suspended for at least 180
27 days but not more than 2 years, if the violation resulted
28 in injury to another person.

29 (5.3) In addition to any penalties imposed under
30 paragraph (5) of this subsection (c), a person convicted
31 of violating subsection (c) of Section 11-907 of the
32 Illinois Vehicle Code shall have his or her driver's
33 license, permit, or privileges suspended for 2 years, if
34 the violation resulted in the death of another person.

1 (6) In no case shall an offender be eligible for a
2 disposition of probation or conditional discharge for a
3 Class 1 felony committed while he was serving a term of
4 probation or conditional discharge for a felony.

5 (7) When a defendant is adjudged a habitual
6 criminal under Article 33B of the Criminal Code of 1961,
7 the court shall sentence the defendant to a term of
8 natural life imprisonment.

9 (8) When a defendant, over the age of 21 years, is
10 convicted of a Class 1 or Class 2 felony, after having
11 twice been convicted in any state or federal court of an
12 offense that contains the same elements as an offense now
13 classified in Illinois as a Class 2 or greater Class
14 felony and such charges are separately brought and tried
15 and arise out of different series of acts, such defendant
16 shall be sentenced as a Class X offender. This paragraph
17 shall not apply unless (1) the first felony was committed
18 after the effective date of this amendatory Act of 1977;
19 and (2) the second felony was committed after conviction
20 on the first; and (3) the third felony was committed
21 after conviction on the second. A person sentenced as a
22 Class X offender under this paragraph is not eligible to
23 apply for treatment as a condition of probation as
24 provided by Section 40-10 of the Alcoholism and Other
25 Drug Abuse and Dependency Act.

26 (9) A defendant convicted of a second or subsequent
27 offense of ritualized abuse of a child may be sentenced
28 to a term of natural life imprisonment.

29 (10) When a person is convicted of violating
30 Section 11-501 of the Illinois Vehicle Code or a similar
31 provision of a local ordinance, the following penalties
32 apply when his or her blood, breath, or urine was .16 or
33 more based on the definition of blood, breath, or urine
34 units in Section 11-501.2 or that person is convicted of

1 violating Section 11-501 of the Illinois Vehicle Code
2 while transporting a child under the age of 16:

3 (A) For a first violation of subsection (a) of
4 Section 11-501, in addition to any other penalty
5 that may be imposed under subsection (c) of Section
6 11-501: a mandatory minimum of 100 hours of
7 community service and a minimum fine of \$500.

8 (B) For a second violation of subsection (a)
9 of Section 11-501, in addition to any other penalty
10 that may be imposed under subsection (c) of Section
11 11-501 within 10 years: a mandatory minimum of 2
12 days of imprisonment and a minimum fine of \$1,250.

13 (C) For a third violation of subsection (a) of
14 Section 11-501, in addition to any other penalty
15 that may be imposed under subsection (c) of Section
16 11-501 within 20 years: a mandatory minimum of 90
17 days of imprisonment and a minimum fine of \$2,500.

18 (D) For a fourth or subsequent violation of
19 subsection (a) of Section 11-501: ineligibility for
20 a sentence of probation or conditional discharge and
21 a minimum fine of \$2,500.

22 (d) In any case in which a sentence originally imposed
23 is vacated, the case shall be remanded to the trial court.
24 The trial court shall hold a hearing under Section 5-4-1 of
25 the Unified Code of Corrections which may include evidence of
26 the defendant's life, moral character and occupation during
27 the time since the original sentence was passed. The trial
28 court shall then impose sentence upon the defendant. The
29 trial court may impose any sentence which could have been
30 imposed at the original trial subject to Section 5-5-4 of the
31 Unified Code of Corrections. If a sentence is vacated on
32 appeal or on collateral attack due to the failure of the
33 trier of fact at trial to determine beyond a reasonable doubt
34 the existence of a fact (other than a prior conviction)

1 necessary to increase the punishment for the offense beyond
2 the statutory maximum otherwise applicable, either the
3 defendant may be re-sentenced to a term within the range
4 otherwise provided or, if the State files notice of its
5 intention to again seek the extended sentence, the defendant
6 shall be afforded a new trial.

7 (e) In cases where prosecution for criminal sexual
8 assault or aggravated criminal sexual abuse under Section
9 12-13 or 12-16 of the Criminal Code of 1961 results in
10 conviction of a defendant who was a family member of the
11 victim at the time of the commission of the offense, the
12 court shall consider the safety and welfare of the victim and
13 may impose a sentence of probation only where:

14 (1) the court finds (A) or (B) or both are
15 appropriate:

16 (A) the defendant is willing to undergo a
17 court approved counseling program for a minimum
18 duration of 2 years; or

19 (B) the defendant is willing to participate in
20 a court approved plan including but not limited to
21 the defendant's:

22 (i) removal from the household;
23 (ii) restricted contact with the victim;
24 (iii) continued financial support of the
25 family;

26 (iv) restitution for harm done to the
27 victim; and

28 (v) compliance with any other measures
29 that the court may deem appropriate; and

30 (2) the court orders the defendant to pay for the
31 victim's counseling services, to the extent that the
32 court finds, after considering the defendant's income and
33 assets, that the defendant is financially capable of
34 paying for such services, if the victim was under 18

1 years of age at the time the offense was committed and
2 requires counseling as a result of the offense.

3 Probation may be revoked or modified pursuant to Section
4 5-6-4; except where the court determines at the hearing that
5 the defendant violated a condition of his or her probation
6 restricting contact with the victim or other family members
7 or commits another offense with the victim or other family
8 members, the court shall revoke the defendant's probation and
9 impose a term of imprisonment.

10 For the purposes of this Section, "family member" and
11 "victim" shall have the meanings ascribed to them in Section
12 12-12 of the Criminal Code of 1961.

13 (f) This Article shall not deprive a court in other
14 proceedings to order a forfeiture of property, to suspend or
15 cancel a license, to remove a person from office, or to
16 impose any other civil penalty.

17 (g) Whenever a defendant is convicted of an offense
18 under Sections 11-14, 11-15, 11-15.1, 11-16, 11-17, 11-18,
19 11-18.1, 11-19, 11-19.1, 11-19.2, 12-13, 12-14, 12-14.1,
20 12-15 or 12-16 of the Criminal Code of 1961, the defendant
21 shall undergo medical testing to determine whether the
22 defendant has any sexually transmissible disease, including a
23 test for infection with human immunodeficiency virus (HIV) or
24 any other identified causative agent of acquired
25 immunodeficiency syndrome (AIDS). A test for infection with
26 HIV or any other identified causative agent of AIDS must be
27 conducted in accordance with guidelines published by the
28 United States Centers for Disease Control and Prevention. Any
29 such medical test shall be performed only by appropriately
30 licensed medical practitioners and may include an analysis of
31 any bodily fluids as well as an examination of the
32 defendant's person. Except as otherwise provided by law, the
33 results of such test shall be kept strictly confidential by
34 all medical personnel involved in the testing and must be

1 personally delivered in a sealed envelope to the judge of the
2 court in which the conviction was entered for the judge's
3 inspection in camera. Acting in accordance with the best
4 interests of the victim and the public, the judge shall have
5 the discretion to determine to whom, if anyone, the results
6 of the testing may be revealed. The court shall notify the
7 defendant of the test results. The court shall also notify
8 the victim if requested by the victim, and if the victim is
9 under the age of 15 and if requested by the victim's parents
10 or legal guardian, the court shall notify the victim's
11 parents or legal guardian of the test results. The court
12 shall provide information on the availability of HIV testing
13 and counseling at Department of Public Health facilities to
14 all parties to whom the results of the testing are revealed
15 and shall direct the State's Attorney to provide the
16 information to the victim when possible. A State's Attorney
17 may petition the court to obtain the results of any HIV test
18 administered under this Section, and the court shall grant
19 the disclosure if the State's Attorney shows it is relevant
20 in order to prosecute a charge of criminal transmission of
21 HIV under Section 12-16.2 of the Criminal Code of 1961
22 against the defendant. The court shall order that the cost
23 of any such test shall be paid by the county and may be taxed
24 as costs against the convicted defendant.

25 (g-5) When an inmate is tested for an airborne
26 communicable disease, as determined by the Illinois
27 Department of Public Health including but not limited to
28 tuberculosis, the results of the test shall be personally
29 delivered by the warden or his or her designee in a sealed
30 envelope to the judge of the court in which the inmate must
31 appear for the judge's inspection in camera if requested by
32 the judge. Acting in accordance with the best interests of
33 those in the courtroom, the judge shall have the discretion
34 to determine what if any precautions need to be taken to

1 prevent transmission of the disease in the courtroom.

2 (h) Whenever a defendant is convicted of an offense
3 under Section 1 or 2 of the Hypodermic Syringes and Needles
4 Act, the defendant shall undergo medical testing to determine
5 whether the defendant has been exposed to human
6 immunodeficiency virus (HIV) or any other identified
7 causative agent of acquired immunodeficiency syndrome (AIDS).
8 Except as otherwise provided by law, the results of such test
9 shall be kept strictly confidential by all medical personnel
10 involved in the testing and must be personally delivered in a
11 sealed envelope to the judge of the court in which the
12 conviction was entered for the judge's inspection in camera.
13 Acting in accordance with the best interests of the public,
14 the judge shall have the discretion to determine to whom, if
15 anyone, the results of the testing may be revealed. The court
16 shall notify the defendant of a positive test showing an
17 infection with the human immunodeficiency virus (HIV). The
18 court shall provide information on the availability of HIV
19 testing and counseling at Department of Public Health
20 facilities to all parties to whom the results of the testing
21 are revealed and shall direct the State's Attorney to provide
22 the information to the victim when possible. A State's
23 Attorney may petition the court to obtain the results of any
24 HIV test administered under this Section, and the court
25 shall grant the disclosure if the State's Attorney shows it
26 is relevant in order to prosecute a charge of criminal
27 transmission of HIV under Section 12-16.2 of the Criminal
28 Code of 1961 against the defendant. The court shall order
29 that the cost of any such test shall be paid by the county
30 and may be taxed as costs against the convicted defendant.

31 (i) All fines and penalties imposed under this Section
32 for any violation of Chapters 3, 4, 6, and 11 of the Illinois
33 Vehicle Code, or a similar provision of a local ordinance,
34 and any violation of the Child Passenger Protection Act, or a

1 similar provision of a local ordinance, shall be collected
2 and disbursed by the circuit clerk as provided under Section
3 27.5 of the Clerks of Courts Act.

4 (j) In cases when prosecution for any violation of
5 Section 11-6, 11-8, 11-9, 11-11, 11-14, 11-15, 11-15.1,
6 11-16, 11-17, 11-17.1, 11-18, 11-18.1, 11-19, 11-19.1,
7 11-19.2, 11-20.1, 11-21, 12-13, 12-14, 12-14.1, 12-15, or
8 12-16 of the Criminal Code of 1961, any violation of the
9 Illinois Controlled Substances Act, or any violation of the
10 Cannabis Control Act results in conviction, a disposition of
11 court supervision, or an order of probation granted under
12 Section 10 of the Cannabis Control Act or Section 410 of the
13 Illinois Controlled Substance Act of a defendant, the court
14 shall determine whether the defendant is employed by a
15 facility or center as defined under the Child Care Act of
16 1969, a public or private elementary or secondary school, or
17 otherwise works with children under 18 years of age on a
18 daily basis. When a defendant is so employed, the court
19 shall order the Clerk of the Court to send a copy of the
20 judgment of conviction or order of supervision or probation
21 to the defendant's employer by certified mail. If the
22 employer of the defendant is a school, the Clerk of the Court
23 shall direct the mailing of a copy of the judgment of
24 conviction or order of supervision or probation to the
25 appropriate regional superintendent of schools. The regional
26 superintendent of schools shall notify the State Board of
27 Education of any notification under this subsection.

28 (j-5) A defendant at least 17 years of age who is
29 convicted of a felony and who has not been previously
30 convicted of a misdemeanor or felony and who is sentenced to
31 a term of imprisonment in the Illinois Department of
32 Corrections shall as a condition of his or her sentence be
33 required by the court to attend educational courses designed
34 to prepare the defendant for a high school diploma and to

1 work toward a high school diploma or to work toward passing
2 the high school level Test of General Educational Development
3 (GED) or to work toward completing a vocational training
4 program offered by the Department of Corrections. If a
5 defendant fails to complete the educational training required
6 by his or her sentence during the term of incarceration, the
7 Prisoner Review Board shall, as a condition of mandatory
8 supervised release, require the defendant, at his or her own
9 expense, to pursue a course of study toward a high school
10 diploma or passage of the GED test. The Prisoner Review
11 Board shall revoke the mandatory supervised release of a
12 defendant who wilfully fails to comply with this subsection
13 (j-5) upon his or her release from confinement in a penal
14 institution while serving a mandatory supervised release
15 term; however, the inability of the defendant after making a
16 good faith effort to obtain financial aid or pay for the
17 educational training shall not be deemed a wilful failure to
18 comply. The Prisoner Review Board shall recommit the
19 defendant whose mandatory supervised release term has been
20 revoked under this subsection (j-5) as provided in Section
21 3-3-9. This subsection (j-5) does not apply to a defendant
22 who has a high school diploma or has successfully passed the
23 GED test. This subsection (j-5) does not apply to a defendant
24 who is determined by the court to be developmentally disabled
25 or otherwise mentally incapable of completing the educational
26 or vocational program.

27 (k) A court may not impose a sentence or disposition for
28 a felony or misdemeanor that requires the defendant to be
29 implanted or injected with or to use any form of birth
30 control.

31 (l) (A) Except as provided in paragraph (C) of
32 subsection (l), whenever a defendant, who is an alien as
33 defined by the Immigration and Nationality Act, is
34 convicted of any felony or misdemeanor offense, the court

1 after sentencing the defendant may, upon motion of the
2 State's Attorney, hold sentence in abeyance and remand
3 the defendant to the custody of the Attorney General of
4 the United States or his or her designated agent to be
5 deported when:

6 (1) a final order of deportation has been
7 issued against the defendant pursuant to proceedings
8 under the Immigration and Nationality Act, and

9 (2) the deportation of the defendant would not
10 deprecate the seriousness of the defendant's conduct
11 and would not be inconsistent with the ends of
12 justice.

13 Otherwise, the defendant shall be sentenced as
14 provided in this Chapter V.

15 (B) If the defendant has already been sentenced for
16 a felony or misdemeanor offense, or has been placed on
17 probation under Section 10 of the Cannabis Control Act or
18 Section 410 of the Illinois Controlled Substances Act,
19 the court may, upon motion of the State's Attorney to
20 suspend the sentence imposed, commit the defendant to the
21 custody of the Attorney General of the United States or
22 his or her designated agent when:

23 (1) a final order of deportation has been
24 issued against the defendant pursuant to proceedings
25 under the Immigration and Nationality Act, and

26 (2) the deportation of the defendant would not
27 deprecate the seriousness of the defendant's conduct
28 and would not be inconsistent with the ends of
29 justice.

30 (C) This subsection (1) does not apply to offenders
31 who are subject to the provisions of paragraph (2) of
32 subsection (a) of Section 3-6-3.

33 (D) Upon motion of the State's Attorney, if a
34 defendant sentenced under this Section returns to the

1 jurisdiction of the United States, the defendant shall be
2 recommitted to the custody of the county from which he or
3 she was sentenced. Thereafter, the defendant shall be
4 brought before the sentencing court, which may impose any
5 sentence that was available under Section 5-5-3 at the
6 time of initial sentencing. In addition, the defendant
7 shall not be eligible for additional good conduct credit
8 for meritorious service as provided under Section 3-6-6.

9 (m) A person convicted of criminal defacement of
10 property under Section 21-1.3 of the Criminal Code of 1961,
11 in which the property damage exceeds \$300 and the property
12 damaged is a school building, shall be ordered to perform
13 community service that may include cleanup, removal, or
14 painting over the defacement.

15 (Source: P.A. 91-357, eff. 7-29-99; 91-404, eff. 1-1-00;
16 91-663, eff. 12-22-99; 91-695, eff. 4-13-00; 91-953, eff.
17 2-23-01; 92-183, eff. 7-27-01; 92-248, eff. 8-3-01; 92-283,
18 eff. 1-1-02; 92-340, eff. 8-10-01; 92-418, eff. 8-17-01;
19 92-422, eff. 8-17-01; 92-651, eff. 7-11-02; 92-698, eff.
20 7-19-02.)

21 Section 99. Effective date. This Act takes effect upon
22 becoming law.